

048928/21061/TPD/BSS

U.S. DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF ILLINOIS, EAST ST. LOUIS DIVISION

JEFF MCGRAW, #Y38458,

Plaintiff,

v.

MARY PEEKS, A. DAVID, WARDEN  
MITCHELL, and WEXFORD HEALTH  
SOURCES,

Defendants.

Case Number 3:21-cv-00800-SMY

Judge Staci M. Yandle

**MOTION TO DISMISS FOR LACK OF PROSECUTION**

COMES NOW Defendant, MARY PEEKS, by and through her attorneys, CASSIDAY  
SCHADE LLP, and for her Motion to Dismiss for Lack of Prosecution, states as follows:

1. On August 20, 2022, Defendant sent Plaintiff discovery requests. (Doc. 50, ¶ 2).
2. On November 16, 2022, having not received Plaintiff's Answers and Responses to her Discovery, Defendant sent Plaintiff a Good Faith Letter requesting Plaintiff's response within 14 days. (Doc. 50, ¶ 3).
3. On January 3, 2023, having not received Plaintiff's Answers and Responses to her Discovery, Defendant sent Plaintiff a second Good Faith Letter requesting Plaintiff's response within 14 days. (Doc. 50, ¶ 5).
4. On January 24, 2023, having not received Plaintiff's Answers and Responses to her Discovery, Defendant filed her Motion to Compel Discovery Responses. (Doc. 50).
5. On February 7, 2023, this Court granted Defendant's Motion to Compel Discovery Responses, ordering Plaintiff to either respond to Defendant's discovery requests on or before February 21, 2023, or file a Notice with the Court by that date explaining why he is unable to do so. (Doc. 50).

6. To date, Defendant has not received Plaintiff's responses to her discovery, nor has Defendant received any other communication from the Plaintiff.

7. To date, the Plaintiff has not filed a Notice with the Court to explain why he has not responded.

8. Pursuant to Fed. R. Civ. P. 41(b), a Defendant may move to dismiss an action if a Plaintiff fails to comply with a Court Order.

9. Plaintiff has failed to comply with this Court's February 7, 2023, Order.

WHEREFORE, Defendant, MARY PEEKS, respectfully requests that this Court dismiss Plaintiff's action for lack of prosecution pursuant to Federal Rule 41(b), and for such other relief deemed just and proper.

Respectfully submitted,

CASSIDAY SCHADE LLP

By: /s/ Brent S. Scott  
One of the Attorneys for Defendant, MARY  
PEEKs

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 2, 2023, I electronically filed the foregoing Motion with the Clerk of the Court using the CM/ECF system. The electronic case filing system sent a “Notice of E-Filing” to the following:

Christine McClimans  
Assistant Attorney General  
201 West Pointe Dr. Suite 7  
Swansea IL 62226  
(618) 236-8782  
Christine.McClimans@ilag.gov

and I hereby certify that a true and correct copy of the foregoing Motion was served via regular mail to the following non-CM-ECF participant at the following address by depositing the same in the U.S. mail located in St. Louis, Missouri, with proper postage prepaid, before the hour of 5:00 p.m., on March 2, 2023. Under penalties as provided by law pursuant to 735 ILCS 5/1-109, I certify that the statements set forth herein are true and correct:

Jeff McGraw, #Y38458  
HILL CORRECTIONAL CENTER  
600 South Linwood Road  
PO Box 1700  
Galesburg IL 61402

/s/ Brent S. Scott

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